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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/855,621

05/16/2001

Masaru Hirata

NO1276US

9270

7590

09/17/2004

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EXAMINER

TRAN, KHAI

ART UNIT

PAPER NUMBER

2637

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,621

Applicant(s)

HIRATA, MASARU

Examiner

KHAI TRAN

Art Unit

2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2 pp.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-3 recite a code division multiple access communication system. Such claim, consequently, is considered as a single means since the first means does not seem to appear in combination with another recited element of means. Consequently, such claim is held non-enabling. See MPEP 216.08(a).

Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4-6 are narrative in form and do not contain positively recited **steps** of a specific process. Note that method claims should be set forth **a series of steps** in the active tense in an instruction-like manner thereby reciting an actual method. The claim only recites a **single step** without any additional **steps delimiting** how its use is actually practiced. Dependent claims (if applicable) should further limit base claims by reciting additional method steps in a likewise fashion. Ex parte Erlich 3UPQ2d 1011 at 1017 [6].

Regarding claim 1, line 5, the term "may" is a type of indefinite terminology. It is impossible to determine if the limitation is required in the claim or if it is not.

Regarding claim 2, line 7, the term "may be" is a type of indefinite terminology. It is impossible to determine if the limitation is required in the claim or if it is not.

Regarding claim 4, line 5, the term "may" is a type of indefinite terminology. It is impossible to determine if the limitation is required in the claim or if it is not.

Regarding claim 2, lines 6-7, the term "may be" is a type of indefinite terminology. It is impossible to determine if the limitation is required in the claim or if it is not.

Claims 3 and 6 are rejected by virtue of their dependency.

Allowable Subject Matter

2. Claims 1 and 4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
3. Claims 2-3 and 5-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
4. The following is a statement of reasons for the indication of allowable subject matter: none of the prior art of the record discloses or suggests that a code division multiple access (CDMA) communication system and a channel estimation method in which a base station transmits data in which an individual channel being individual user data and a common pilot channel, wherein the mobile station comprising: a first means for carrying out the channel estimation using common pilot channel, when the mobile station is near the base station and, if said mobile station is far away from the base

station, for carrying out the channel estimation using a pilot symbol of the individual channel.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takai et al (U.S. Pat. 5,771,451) disclose a method of transmission power control in a cellular mobile communication system and apparatus thereof.

Sato (U.S. Pat. 6,233,454) discloses a mobile station.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI TRAN whose telephone number is (571) 272-3019. The examiner can normally be reached on 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAY PATEL can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 2637

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KHAI TRAN
Primary Examiner
Art Unit 2637

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September 10, 2004